Development (1938) Department.

12 SERIES.

G.O. No. 1210

DATED 10-5-1938

[Despatch Abstract.]

Mines - Lease - Redoxide - Bellary taluk - East India China Clay Company - Appeal - Orders passed.

***

PROPRIETORS
M. N[illegible]AYANASWAMY NAIDU & SON,
FACTORY:- NELLIKUPPAM (SOUTH INDIA).

CODES USED
A. B. C. 5TH & 6TH EDITIONS, BENTLEY'S & PRIVATE

EAST INDIA CHINA CLAY COMPANY,

(ESTD. 1894)

MADRAS.

TELEGRAMS & CABLES
"PRANAVA"
MADRAS

Nellikuppam, 19th Novr. 37
(S. INDIA)

To

The Honourable the Minister for Development,
Government of Madras,
Fort St. George, M a d r a s.

Dm. 5522-N
30-11-37.

Most Revered Sir,

Re: Mining Leases - Red Oxide (Bellary) - Bellary taluk - Haragondona village - S.No.311.

-:0:-

We beg to submit this humble memorial for the Hon'ble the Minister's kind consideration and favourable orders.

2. We have been carrying on mining operations in respect of China Clay for the past about forty years in this Presidency. We also own a factory at Nellikuppam (South Arcot) and are manufacturing fire bricks. We also have a long experience in the mining of other minerals.

3. On 17-7.35 we applied to the Collector of Bellary for the grant of a mining lease for red-oxide over an extent of 500 acres in S.No.311 of Haragondona village, Bellary Taluk, for a period of thirty years. In response to our application, the Collector was pleased to inform us in his letter Ref. M.L.A.1/35 dated 31-7-35 that a plot of 85 acres in the field had already been granted on 'Prospecting Licence' for the same mineral to Mr. Y. Dasaratharama Reddi and that we might

Our Departments are:

1. Mining

Yellow and Red Oxides
Iron Ores
Manganese
Chrome
Magnesite
Yellow & Red Ochres
Mica
Asbestos
Bauxite
Steatite
Kyonite
Corundum
Garnet
Monosite
China Clay (Crude 75%-85%) & (Refined)
Felspar
Barytes &c., &c

2. Exports

All above Minerals & Produce such as:—
Nux Vomica,
Divi Divi,
Indigo,
Myrobalams,
Turmeric,
Cardamom,
Coir & Coir Mattings,
Tea & Coffee,
Tamarind,
Hill-Produce,
Pepper,
Raisins,
Cashewnuts,
Gum,
Mustard Seeds,
Linseed &c., &c.

3 Imports

Machinery & Parts
Fancy Goods
Perfumery & Toilet Goods
Musical Instruments
Medical & Surgical Goods
Stationery Articles
Earthenware & Pottery
Glazed Tiles
Electrical & Radio-Wares
Clocks, Watches &c.
Dyes & Colours
Paints, Varnishes &c., &c., &c.

select any other plot in the field and send a revised application with sketches in duplicate, the original copy of the Certificate of Approval granted to us for 1935 and the treasury chalan for Rs.500/- being the security deposit under rule 36, of the Mining Rules. As we were not then the holders of a Certificate of Approval, we represented to the Collector on 11-8-35, that we ~~are~~ were submitting our application for the grant of a Certificate of Approval to the Board of Revenue through the Collector of South Arcot, and that we would obey the instructions in his letter mentioned above on receipt of a Certificate of approval from the Board of Revenue. But to our surprise the Collector rejected our application for Mining Lease in his L.Dis. M.L.A.1/35 dated 26-8-1935.

4. In the meantime, we had already submitted our application for the grant of a Certificate of Approval to the Collector of South Arcot. It was rejected by the Board on account of the incorrect particulars furnished to them by the subordinate officers of the Revenue Department. We again put in a revision petition to the Board of Revenue on 9-1-36, explaining our financial status and also the incorrect and incomplete nature of the enquiry made by the Revenue Officers in South Arcot District in the first instance. The Board of Revenue was pleased to make a re-enquiry in the matter and granted us a Certificate of Approval on 26-5-36 for mining Red Oxide in this Presidency.

5.

5. Thereupon we submitted a revised application to the Collector of Bellary on 22-6-36 for the grant of a mining lease for red-oxide in the field referred to above. Again the Collector informed us in his letter No.M.L.A.4/36 dated 3-8-36 that as an extent of 85 acres in the field had already been held by Mr. Y. Dasaratharama Reddi on Prospecting licence, we might inspect and apply for the remaining area in the field. Accordingly we inspected the field on 14-9-36 after purchasing the survey plan therefor for annas twelve under directions from the Collector and found the plot held by Mr. Y.D. Reddi running from end to end, right in the middle of the field. We put in a petition to the Collector on that date itself and represented to him that the area held by Mr. Y.D. Reddi cut the field into three plots, (a), (b) and (c), and that his occupation of the block (b) would prevent access between (a) and (c) that might be handed over to us. We therefore requested the Collector to shift the area held by Mr. Y.D. Reddi to one border of the field, so that we might conveniantly hold the remaining area in the field. In reply to this the Collector informed us in his L.Dis.4689/36 dated 26-9-36 that as Mr. Y. Dasaratharama Reddi had since applied for the entire area of the field, our request could not be granted.

6. We humbly submit that Mr. Y.D. Reddi who was holding the 85 acres in the field under 'Prospecting' licence had never applied for the entire area prior to 14-9-36 on which date we put in our Revised applicatio

to the Collector for the grant of a mining 'Lease' on the remaining area as directed by him on 3-8-36. The fact that the Collector did not make mention of this in his letter M.L.A.4/36 dated 3-8-36, but that he asked us to apply for the remaining area will easily substantiate this. The expression 'since' appearing and occurring in the abovesaid Collector's letter dated 26th September 36 clearly shows that the Collector might have received the application from Mr. Y.D. Reddi for the entire area of the land only just about that date, i.e., after three months since we put in our revised application to the Collector on 22-6-36. Thus it may be kindly noted that so far as the remaining area of the field is concerned, we were the first applicants to it and have the prior right to the mining lease over it, under Rule 42 of the Mining Rules and the Note thereunder. We submit that the Collector ignored the provisions of this rule in passing his order L.Dis.4689/36 dated 26-9-36,

7. We again beg to submit that we put in a petition to the Collector pointing out to him the above fact and requested him to re-consider his order. But in his letter L.Dis.4976/36 dated 30-10-36 he declined to reconsider his order which was passed in clear contravention of the Mining Rules quoted above.

8. Therefore we preferred an appeal to the Board of Revenue on 27-11-36, and placed these facts before them. But the Board too was not pleased to respect our prior right to the mining concession based on the

provisions of Rule 42 of the Mining Rules and declined to interfere on our behalf in its Proceedings B.P.Rout. 2692 dated 7-6-37.

9. Again we put in a petition to the Full-Board on 12-7-37 representing the above facts and also the unsystematic manner in which Mr. Y.D. Reddi has been working the mine he is holding under 'Prospecting' licenc But the Board declined to reconsider its order dated ~~7-6-37.~~

10. We enclose a copy of our petition dated 12th July 37 to the Board for favour of perusal by the Government. A kind perusal of para 8 of the petition will convince the provisions of Covenant II (2) of the several Covenants to be observed by him under the Prospecting licence granted to him. It is evident that neither the Collector nor the Board has inspected the portion of the mine worked by him even though we prayed for the local inspection of the plot by the Board or the Collector. We assure the Government that a local inspection of the plot by the Collector will convince them that Mr. Y.D. Reddi is unsystematic in his mining operations and therefore unfit to work any mine. He has also caused damages to the mine by digging a dangerous pit in contravention of the covenants of the prospecting licence and mining rules.

11. As we have stated in our petition dated 12-7-37 to the Board, the entire area of the land is 475 acres. The Collector's action in leasing out this whole extent to Mr. Y.D. Reddi amounts to his allowing him to

monopolise the mine and to work unsystematically as hitherto to the detriment of the interests of other aspiring miners, who are prepared to work the mines in strict accordance with the Mining Rules.

12. We also beg to draw the kind attention of the Government to para 9 of our petition dated 12-7-37 to the Board of Revenue. The Collector's Order dated 26-9-36 and the Board's order dated 7-6-37 upholding it have rendered us unable to keep up our promises extended to certain Companies in America, England and Japan for exporting the mineral to them and thereby caused us immense LOSS.

13. In fine we submit that we are entitled to the Mining Lease over the remaining area of the field, as the prior right to the concession is with us under Rule 42 of the Mining Rules. We therefore pray that the benign Government may be pleased to consider these facts set forth hereinabove and to order the grant of ining lease over the remaining area of the land in our avour and thus render justice.

14. We also pray that pending disposal of this Memorial, the action taken by the Collector on the application of Mr. Y.D. Reddi for a mining lease over the whole area of the land may be ordered to be stayed.

15. We also enclose with this, copies of correspondence with firms in foreign countries for the perusal of the Government and return to us when done with. They will prove the earnestness of our Firm in mining Red-oxide.

16. Copies of Board's orders B.P. Rout. No. 2692/37 dated 7-6-37 and Rout. 4772 dated 11-10-37 and a copy of our petition dated 12-7-37 to the Board are also enclosed herewith in Original.

We beg to remain,

Most Revered Sir,

Your Honour's most obedient servan

For THE EAST INDIA CHINA CLAY CO.,

Proprietor

PROCEEDINGS
MEMORANDUM OF THE Board of Revenue, M a d r a s.

Post Box No. _____ *Telegraphic Address* _____
Name C.A.Henderson, Esquire, V.D., I.C.S., Commissioner of Land Revenue and Settlement.

Routine *No.* 2692, *dated* the 7th June 1937.

Short title Mining Leases - Red-earth - (Bellary) - Bellary Taluk -

READ—the following :— Haragandona village - S.No.311 - The East India China Clay Company - Appeal petition - Rejected -

-:-

Petition from the East India China Clay Company dated the 27th November 1936, and Board's Reference thereon No. Inam 1566/36.1, dated the 11th December 1936.

Petition from the East India China Clay Company dated the 20th December 1936 and Board's Reference thereon No. Inam 1566/36.2, dated the 25th January 1937.

Letters from the Collector of Bellary, R.C.No.501/37 dated the 24th February 1937, R.C.No.501/37-A.1, dated the 22nd March 1937, and R.C.No.501/37-A.1, dated the 15th April 1937.

-:-

RESOLUTION.

The Board sees no reason to interfere on behalf of the petitioner. The petition is accordingly rejected.

xx xx xx

(True Extract)

(Sd) L.Lakkaraju,
Asst. Secretary.

To the Collector of Bellary, with records as per list returned.

To the East India China Clay Company, Nellikuppam, paragraph 1 only.

- - - -

F o r w a r d e d

(By O r d e r)

Superintendent.

c.n.n./10-6-1937.

PROPRIETORS
M. NARAYANASWAMY NAIDU & SON,
FACTORY:- NELLIKUPPAM (SOUTH INDIA).

7 12 49

CODES USED:
A. B. C 5TH & 6TH EDITIONS. BENTLEY'S & PRIV

EAST INDIA CHINA CLAY COMPANY,

(ESTD. 1894)

MADRAS.

TELEGRAMS & CABLE:
"PRANAVA"
MADRAS

Nellikuppam, 15th Novr. 37
(S. INDIA)

Our Departments are:

1. Mining

Yellow and Red Oxides
Iron Ores
Manganese
Chrome
Magnesite
Yellow & Red Ochres
Mica
Asbestos
Bauxite
Steatite
Kyonite
Corundum
Garnet
Monosite
China Clay
(Crude 75%-85%) &
(Refined)
Felspar
Barytes &c., &c.

2. Exports

All above Minerals &
Produce such as:—
Nux Vomica,
Divi Divi,
Indigo,
Myrobalams,
Turmeric,
Cardamom,
Coir & Coir Mattings,
Tea & Coffee,
Tamarind,
Hill-Produce,
Pepper,
Raisins,
Cashewnuts,
Gum,
Mustard Seeds,
Linseed &c., &c.

3. Imports

Machinery & Parts
Fancy Goods
Perfumery & Toilet
Goods
Musical Instruments
Medical & Surgical
Goods
Stationery Articles
Earthenware & Pottery
Glazed Tiles
Electrical & Radio-
Wares
Clocks, Watches &c.
Dyes & Colours
Paints, Varnishes
&c., &c., &c.

Copy

of letter of Appeal to the Full Board of the Board of Revenue submitted on 12th July 1937.-

Nellikuppam, 12th July 1937

To

The Secretary,
Board of Revenue (Land Revenue & Settlement)
M a d r a s.

Sir,

Re: Mining Lease for Red Oxide in S. No. 311, of Haragondonahalli Village, Bellary Taluk, Bellary Dt.

With reference to the Board's Proceedings No. Rt. 2692/3 dated 7th June 1937, we beg to submit the following for the kind consideration and favourable orders of the Full Board.--

2. We applied to the Collector of Bellary on 17th July 35 for the grant of a Mining Lease for Red Oxide over 500 acres of land in Haragondona village, Bellary Taluk for a period of 30 Years. The Collector informed us in his letter No. M.L.A. 35-A, dated 31-7-35, that a block of 85 acres in the field had already been held by Mr. Y.Dasaratharama Reddi under a Prospecting licence and that we might select any other block in the same area and submit a revised application with revised sketches in duplicate and the Original Copy of the Certificate of Approval granted to us. At that time our application for the grant of a Certificate of Approval was pending with the Collector of South Arcot and the Board. The Board was pleased to grant us a Certificate of Approval on 26-5-1936.

3. Thereupon we presented a revised application to the Collector on 22-7-36 for the grant of a Mining Lease for Red-Oxide over 500 Acres of S.No. 311 mentioned above. The Collector informed us in his letter M.L.A. 4/36 dated 3rd August 1936 that as Mr. Y.Dasaratharama Reddi had already been granted 85 acres under Prospecting Licence, we might inspect the field and apply for the remaining area. enclosing a sketch. We accordingly got a plan of the entire field on payment of Annas Twelve as per Collector's letter 4186/36 dated 26-8-36, inspected the field a put in an application to the Collector on 24-9-36 stating there that the portion occupied by Mr. Y.Dasaratharama Reddy runs jus

in the middle of the field separating the plots A & C in the field and that if A & C were granted to us we would not be able to move freely from A to C on account of the intervention of Mr. Y.D.Reddi's portion B. We therefore requested the Collector that Mr. Reddi's plot may be shifted from the middle to one end or margin of the field and the remaining field may be leased to us. This was supported by us in order that both ourselves and Mr. Reddi might carry on mining operations peacefully. In reply the Collector informed us in his letter L.Dis. 4689/36 that Mr. Y.D.Reddi has since applied for the lease of the entire field and that as such no action could be taken in respect of our request. We again requested the Collector for a re-consideration of his order stating that Mr. Reddi must have applied for the entire area of the land only subsequent to our application But the Collector declined to re-consider his order (Vide his L.Dis. 4976/36 dated 30-10-36)

4. Thereupon we approached the Honourable Board in Appeal on 27-11-36, representing the above facts. But the Board rejected our Appeal in its Proceedings Rt. No. 2692 dated 7-6-37.

5. We submit that when the Collector informed us in his letter M.L.A. dated 3-8-36, that Mr. Reddi had already been granted a prospecting licence over 85 acres of land, he made no mention of any application from Mr. Reddi for a Mining Lease for the whole area as pending before him at that time. On the other hand the Collector has specifically directed us to apply for the remaining area of the field. This is proof conclusive that there could have been no application for lease from Mr. Reddi at that time. If at all Mr. Reddi had taken into his head for applying for a lease and applied as such, he would have applied only for the 85 acres under his occupation under prospecting Licence and not for the entire area. This is also supprted by the Collector's own statement i n his letter L.Dis. 4689/36 dated 26-9-36 that "Mr. Y.D.Reddi has "since" applied for the entire field"

6. Of course Mr. Y.D.Reddi who holds 85 acres under prospecting licence may extend his operations in the field and apply for th e greatest extent in the land. But he never expressed his intention of extending his operations over the entire field at any time before we put in our application for a mining lease either for th e emtire area or for the remaining area. A kind perusal of the Register of applicants will convince the Board that he originally applied for a mining lease for his 85 acres only and applied for the entire area only after we put in our application for the entire area (less his portion) Surely nothing but a bad motive for preventing our efforts at gettinglease must have prompted Mr. Reddi to make a move of this kind. Under Rule 42 of the Mining Rules, the prior right to mining concessions rests with an applicant who after satisfying all the formalities therein mentioned, had been the first to deposit his application with the Collector. The field in questionmeasures 475 acres, of which 85 acres isheld by Mr. Reddi under Prospecting Licence. The remaining 390 acres were unoccupied at the time of our application dated 17-7-35, 22-7-36 and 14-9-36. At the time of our revised application d/22-7-36 and 14-9-36, we satisfied the qualifications mentioned in Rule 42 and the priority for the Mining concession so far the remaining 390 acres of the land above is concerned rests with us. The Collector's letter L.Dis. 4689/36 dated 26-9-36 and the Board's Proceedings 2692/7-6-37 which confirmed it are quite in contravention of this Rule.

7. Besides, from the standpoint of the administration of the Mines, the Orders of the Board and the Collector require revision. As stated above the field measures 475 acres. According to the Collector'sletter it is proposed to give this entire extent to one person. This proposal amounts to, we submit, allow one man alone to monopolise the entire area and to shutting other enterprising industrialists from deriving the benefit. This policy would jeopardise the Indian Industry in these days when the benign British Government have been kind enough to give all aids and support to the uplift of the country's industries, to improve the prosperity of the land.

8. Further, it may be submitted that Mr. Reddi has not been working even the 85 acres of the Red Oxide mine now granted to him on prospecting licence properly and in a systematic manner as required by the mining rules. He has excavated a deep pit in the shape of a well, 7 to 8 feet in diameter and 25 to 30 feet in depth. It appears that this pit is situated outside the area granted to him under prospecting licence. This is a gross breach of the mining rules. A local inspection of the area by the Board or the Collector will prove that he has not been working constitutionally or in any businesslike manner and that he is quite unfit to hold any mining concession. An inspecting officer, will on local enquiry feel convinced that Mr. Reddi has not also been extracting sufficient materials to pay Royalty to the Government He does not also possess sufficient Capital to work the mine. He is nominally holding the lease or licence in his own name but has allowed only outsiders to work out the mine without apprising the Government of such facts. This is clearly contravening the specific provisions of the mining rules and a breach of the licence. This will be evident if the Government institutes a local enquiry through a responsible officer like the Collector of the place. It is quite opposed to the principles of 'equity' and also efficient administration to give such mining concessions to persons of irresponsible methods and unbusinesslike habits, at the same time shutting out persons of worth and character anxious to improve the industry to the best possible extent and in strict adherence to the Rules.

9. Personally ourselves have been working White Clay in the South Arcot District as also in Chingleput District and have never given the least room for the Government to be dissatisfied with us or our works. We have an experience of over forty years in mining and we have been dealing in several kinds of minerals with foreign countries like England, America, Germany and far Eastern countries like Japan etc. In these days when the country's once powerful industrial position has been felt to have come down and ~~the Government~~ we have been exerting ~~their~~ our best to capture many foreign commercial centres for the minerals of the land and have been promised support by many multi.millionairs firms in United Kingdom and also Continental countries, The Government have got to help such industrial attempts and then only the minerals of the land which are as yet untapped could fetch the rightful price and place for the benefit of the country. It is up to the Government to throw open all available mining areas to aspiring industrialists like us instead of confining to such individuals like Mr. Reddi who evidently wants to adopt a policy of 'dog in the manger' Thereby the provincial resources will be improved both for thebenefit of the country as also the Government.

10. In these circumstances we pray to the Hon'ble Board to consider kindly our claims for the mining concession and to grant us the remaining area of the land for minging Red Oxide in S. 311 of Haragongonda Village, mentioned above in view of all the points suggested herein.

11. It is the humble request of the petitioners that ~~xxxx~~ till such time the Hon'ble Board decide over the matter of this petition it may be kindly pleased to instruct the Collector of Bellary district not to precipitate any lease deed with the said Y.D.Reddi or others for the area and land now under reference.

Webeg to remain,

S i r,

Your most obedient servants,

For The East India China Clay Co.,

Sd. M.Narayanaswamy Naidu
Proprietor.

(True Copy)

C.F.33.

PROCEEDINGS
MEMORANDUM OF THE Board of Revenue, Madras.

Post Box No. _____ *Telegraphic Address* _____

Name C.A.Henderson Esq.V.D., I.C.S., Commr. of Land Revenue and Settlement.

B.P.Rout. *No.* 4772, *dated* 11-10-1937 193

Short title MINING LEASE - Red Oxide -(Bellary) Bellary taluk Haraganadona village - S.No.311 - The East India China Clay Co. - Reconsideration - Petition Rejected.

READ—the following :—

****

Read:

1.
B.P.Routine No.2692 dated 7-6-1937.

2.
From the East India China Clay Co., letter dated 12-7-1937.

Resolution.

The Board sees no reason to reconsider the orders already passed. The petition is rejected.

(True extract)

(sd)L.Lakkaraju
Asst.Secretary.

To
The East India China Clay Co.,
Nellikuppam.

Copy to the Collector of Bellary.

****

Forwarded.

(By order)

Superintendent.

PRD/16-10.

Rev. Deptt.

D.M. No. 5522-IV/37-1, d. 17-1-38

Sl-c
18/1/38

17-
/1/38

Pp. 1-7c. f.

sub:- grant of mining lease - Appeal against the orders of Board of Revenue.

Ref:- Petition from the East India China Clay Company dated 14-11-37

The Board of Revenue is requested to submit a ~~self-contained~~ report on the enclosed petition.

17/1

P.S. 15/1/38
14.1.38.

Cir
17/1/38

To The Board of Revenue
(with C.f. to be returned with reply).

Approved
18/1/38

15

C.F. 31—17,006—9-2-37.

DEVELOPMENT - **DEPARTMENT.**

CURRENT No.

Received ASSISTANT SECRETARY TO GOVERNMENT 16 FEB 1938 DEVELOPMENT DEPARTMENT 19

Registered Dev. 1589 IV 16.2.38 19

Subject.

Mining - Lease - Red Oxide - (Bellary) - Bellary Taluk - Haraganadona village - S.No.311 - East India China Clay Company - Appeal - Report - Submitted -

Reference-No. I-322/38.1,

Station Madras, *Dated the* 10th February 1938.

From D.I.R.Muir, Esquire, I.C.S.,

Joint Secretary,

Board of Revenue.

C.A.Henderson, Esquire, C.S.I., V.D., I.C.S., Commissioner of Land Revenue and Settlement.

:-:

Read the following paper:-

Memorandum from Government, Development Department, No.5522-IV/37.1, dated the 17th January 1938.

:::

REFERENCE.

The Board submits the following report with reference to the Memorandum from Government read above.-

The appeal preferred by the East India China Clay Company against the order of the Collector of Bellary, L.Dis. No.4689/36 dated the 26th September 1936 was received on 30th November 1936 and it was time barred. The Board, however, condoned the delay and considered the case on merits.

The Company's revised application to the Collector dated the 14th September 1936 was with conditions, as it requested the Collector to give Mr. Y.Dasaradharama Reddi a different plot of 85 acres on one side of the field. It was -

considered

16

(2)

considered unfair to deprive Mr. Y.Dasaradharama Reddi of the portion of the field which he was already holding under prospecting licence as suggested by the Company. The Collector also reported that the company's contention that Mr. Y.Dasaradharama Reddi applied for the entire area subsequent to the Company's application (i.e) on 22nd September 1936 might be true so far as the application for the mining lease was concerned, but that the Company's contention that that it had preferential claim over Mr. Y.Dasaradharama Reddi could not hold good under rule (42) of the rules in Chapter VI of the Madras Mining Manual, as the Company was not in possession of any part of the mine. The Board, therefore, found no reason to interfere on behalf of the petitioner and rejected the appeal petition in its Proceedings Routine No.2692 dated the 7th June 1937.

On 12th July 1937 the Company requested the Board to reconsider the orders referred to above, stating (1) that one man (Mr.Y. Dasaradharama Reddi) should not be allowed to monopolise the entire area measuring 475 acres and (2) that Mr. Y. Dasaradharama Reddi committed many irregularities in his prospecting work and did not also possess sufficient capital to work the mine. The first contention could not be considered, as under rule (45) in Chapter VI of the Madras Mining Manual a person can hold mining leases upto an extent of ten square miles. As regards the second contention the Collector reported that the petitioner was a rival Company and that the allegations were quite baseless. The Board therefore in its Proceedings Routine No.4772 dated the 11th October 1937 refused to reconsider the orders already passed and rejected the petition.

2. The Board submits that the lease over the entire area has since been granted to Mr. Y.Dasaratharama Reddi and that the present petition to Government does not contain any new allegation.

for Joint Secretary.

To the Secretary to Government, Development Department, with enclosures returned.

Dm. Dpth.

Sub:- Mining lease - Appeal against the orders of the Board of Revenue.

Ref:- Petition from the East India China Clay company dated 19-11-1937.

f: 1-7-f.

Lo No. 2

The East India China Clay company, Nellikuppam, Cuddalore applied in July 1935 to the Collector of Bellary for a mining lease for red oxide, when it was not in possession of a certificate of approval. But the Collector of Bellary informed the company that a mining lease has already been granted to Mr. Y. Dasaratharama Reddi over a portion of the field applied for by the company & asked the company to apply for some other area with a certificate of approval. When the company obtained a certificate of approval and applied for mining lease, over the same field the Collector informed the company that an area of 85 acres in the filed has been granted to Mr. Y. Dasaratharama Reddi & that the Company might apply for the remaining area in the field. As the portion held by Mr. Reddi was in the middle of the field, the company

1st f. 1 to 5. f.

1st fap. 1-2-c f.

1 to 2nd fp. 3-a f.

asked the Collector to shift Mr. Reddi's area to our border and grant it the remaining area. The Collector did not grant this request, and the Board of Revenue also declined to interfere when an appeal was made to it. Now the company has appealed to Govt.

Boya Ry Reddi had since applied for the entire area of the field

para xx of p. 4-5

2. Under the second sub-para to the note under rule 4-A at pages 55-56 of the Mining Manual the Govt. had power to revise any order passed by the Collector or the District Forest Officer or the Board of Revenue. But at the suggestion of the Board of Revenue, Govt. have deleted the above sub-para. In this circumstances it is for orders whether any report should be called for or whether the company may be informed as in rule XVIII and rule XVII (7) at pages 70 and 69 of the Business Rules — G.O. No. 1186, Dev., dated 22-5-1937. H.M. has to see.

page 30 of G.O. 1297 dt 10-10-35 Bath. 22, I (K) (Revised)

(F)

P.S.
6.12.37.

17/12

23.12.37

Circd 3-1-38
Rem

H M (J & L). I am of opinion that

5-7

to powers that [illegible] land hitherto to
revise the orders of Collectors of Land Revenue
or Board of Revenue should be resumed
and the deletion of the Secretary Board
to the Rule under Rule 4 A at page
5-6 - 5-6 of the manual be Cancelled

A

51 Reply may be called for

7/1/38

Lo 2.s

A. above. The question has been
raised in another file which is with
H.M. (Land) Lab. No action need be
taken in that direction in this file.

2. B above

A draft O.M. is submitted for
approval

P.S. 15-7
14.1.38

17.1.38

O.M. No. 5522-IV/37-1, dated 17-1-1938
addressed from the Board of Revenue No.
I-322/38-1, dated 10-2-38.

Lo 2.s.

Please see the Board's reference
at pp. 15-16 f.

2. The Board of Revenue issued a certificate of approval to the ~~applicant~~ memorialist on 26-5-1936, and on 22-6-1936 he applied~~XXX~~ for a mining lease for red oxide in S. No. 311 of Haragondona village, Bellary taluk. The Collector informed the ~~applicant~~ memorialist that an extent of 85 acres in the field has already been granted to Mr. Dasaratharama Reddi and that he might apply for the remaining area in the field. The ~~applicant~~ memorialist put in an application on 14-9-1936 with the request, that, as the area held by Mr. Reddi was in the middle of the field, he may be given one border of the field and that the applicant may be given a lease for the remaining area of the field. ~~XXXX

The form of licence will be found at pp.112-126 (Appendix VII). The lands for which a licence is granted are to be described giving the area, boundaries,etc., in Schedule A, page 125 of the Mining Manual. The rights of the licensee are detailed in para IV (on p.123) of the standard form of prospecting licence. Rule 32 of the Mining rules also classifies the rights of a licensee. The crucial clause here seems to be "such lease (mining lease) may include so much land, comprising the whole or a part only of the area for which the prospecting licence was granted as shall not exceed the area specified with respect to mining leases in rule (45)." The rule of priority in regard to applications for prospecting licences is laid down in rule 23.

Rule 38(c) dealing with mining leases corresponds with rule 16(b) dealing with prospecting licences; rule 39 with rule 17 and rule 40 with rule 18 and rule 42 lays down the law on priority.

In the present case Mr. Reddy held a prospecting licence for a particular area (described in detail in Schedule A of his prospecting licence) in a field. Mr. Reddy has a right to a mining lease of this particular area (Rule 32) but he does not get a prior right by reason merely of holding a prospecting licence for a particular area, to other areas in the same field. If there is another application for a mining lease for the area not covered by the prospecting licence and if this application is prior in point of time to that of Mr. Reddy, then it is clear that Mr. Reddi has no right to a mining lease of this area in preference to the other applicant. In this view of the matter the

Board of Revenue's decision not to interfere with the Collector's orders does not seem justified.

There is one more point to be remembered. A lease has already been given for the entire field to Mr. Reddy. If the Government now find that Mr. Reddy is not entitled under the rules to get this lease, then the question of part cancellation of the lease granted to Mr. Reddy has to be considered. Legal may be able to advise on this.

As
YBS

The question of reserving powers given to the Board is separately under consideration.
When the order in this case was passed the Board was the final authority & there was & no appeal or revision to Govt. But all the same Govt have the general supervising powers over the Board of Revenue ~~and~~ under an ancient regulation of 1803 or so, unless of course the regulation itself has been now repealed. Legal will be requested to advise on the point.

(K)

A Technically I suppose the memorialists had a superior claim but I am not sure that in equity they had any. They evidently wanted to get on both sides of Mr Dasaratheo Reddi and choke him.

C.R.
5.3.38

Legal n/o

Dev. 6.6. 5522-IV/37
5.3.38

ASSISTANT SECRETARY TO GOVERNMENT
7-MAR 1938
LEGAL DEPARTMENT

Legal Department

Development are kindly requested to put up--

(1) G.O.No.1397 Development dated 10th October 1935; and

(2) G.O.No.1554 Development dated 30th October 1925.

E 1 - L

Legal No. 6537-1
8/3/38

K.M.
8/3/38

Dev.

Dev. 1659 IV
9.3.38

Dev. Dept.

ASSISTANT SECRETARY TO GOVERNMENT
9-MAR 1938
DEVELOPMENT DEPARTMENT

Dev. 6.6. 55 22-IV/37-3
22.3.38

ASSISTANT SECRETARY
1945
23 MAR 1938
LEGAL DEPARTMENT.

The g. o's mentioned above at ~~at~~ are at (K) and (L) in the linked file.

P.S.
21.3.38

8/1/41

Legal Department.

As pointed out in the first paragraph of the opinion of the Advocate-General (Mr. T.R. Venkatarama Sastri) at page 4 of the notes to G.O.No.1554, Development, dated 30th October 1925, the rules in the Mining Manual are mere executive orders of the Secretary of State. Before the new Government of India Act came into force, this Government had no power to alter those orders and consequently were not in a position to exercise any power not conferred on them specifically by the orders. Now, however, the position is different. This Government have authority to alter the orders at any time, and they have power therefore to take action at any time in contravention of the orders. (L) in top file.

2. The Government do not appear to have power to interfere under the Madras Board of Revenue Regulation of 1803 as it now stands but it is unnecessary to pursue this question further in view of the conclusion reached in paragraph 1 above.

K. M.
26/3/38

Rev 29/3/38 S Legal/1945-1
25/3/38.

DW

Dev. Dept.

ASSISTANT SECRETARY TO GOVERNMENT
28 MAR 1933
DEVELOPMENT DEPARTMENT

To D-2 [illegible]
Please see Legal dept. notes above.
Under rule 42 at p. 155 of the Mining Manual the Board of Revenue has the right to pass over a prior applicant. the govt. having delegated to it all

Dev. 2268 IV
28.3.38

~~the points~~ ~~Confirmed on them~~
submitted for orders.

P.S.
31.3.38

~~Mr Brink there is any case for interference~~

There is a rule in the Manual to the effect that A should not be allowed to rob B of the benefits of his labour. It looks as if Mr Dasarathan Reddi is prospecting with success made the East India China Clay Co. Ltd. for a mining lease. Please reference the rule.

CC
4.4.38

U.S.

There is no rule directly to the above effect. ~~Reference is solicited to the rights of the lessee~~ ~~licensee~~ at ~~pp. 123-126 of the Manual~~.

I still think there is. Please show. thy file about Narayan Das Gurbhardas's affair CC 13.4.38

P.S.
9.4.38.

11.4.
11/4

I had in mind H.M.Revenue's minute in the file about a lease to Mr.Dalmia. This is what he state:-

"The discretion given to the Local Government is intended to see that the principle of priority is not subordinated to other considerations and to make it possible for the local Government to refuse a license or lease to a man who did not do any prospecting work himself but had learnt by unfair means that a prospector had made a successful find and is about to apply for a lease or license and tries to forestall him by a prior application. This is how the rule is interpreted by the Govt. of India in their letter I & L No.890 dated 21-3-24; G.M.No.643-24/G dated 2-4-1924. The discretionary power of [redacted]ovt. was not meant to do away with the prior right of a man who had employed geologists and staff and carried on investigation work and did everything under the rules to carry his part of the contract."

I see the office is unable to trace the Govt. of India letter. It seems hardly necessary to send for a copy from the Govt. of India as Legal have pointed out, it is open to Govt. to pass any orders they like in this case. On merits I think there is no case for interference.

25.4.38

H M(I&L)

5/5/38

27

No 2.-s.

A draft order is submitted for approval.

P.S.

5-5-3P.

9.5

C.F. 16.

DRAFT FOR APPROVAL.

Dev. Dept.

37/105 Date. Initials.

When received for fair copying ..		
When copied ..	10/5	A
When examined..		
When signed ..		
When despatched.		

SUBJECT :— Mines - Lease - Red oxide - Bellary taluk - East India China Clay Company - Appeal - Orders passed

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

G. No. 5522-IV/38 from the East India China Clay company, No. _____, dated 19.11.1937 pp. 1-7 C.

" D.M. to " Board of Revenue, 5522-IV/38-1 17.1.1938 p. 14 C.

" 1084-IV/38, Board of Revenue, Ag. I. 322/38-1 10-2-1938 pp. 15-16 C.

Order ~~Resolution~~ ~~Roul.~~ Ms. No. 1210, dated 10.5.1938.

[redacted]

Ppd. L.

[illegible] 1938

To Mr. M. Narayanaswamy Naidu & Son, East India China Clay Co., Kalyanpalayam

To The Board of Revenue.

The Govt Decline to interfere with the orders of the Board of Revenue.

A/c 9/1

P.S. 5.5.38. 7.5